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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,796	10/19/1999	SCOTT KIRKPATRICK	YO999-421	3306

7590 09/24/2004

MCGINN AND GIBB PC  
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Vienna, VA 22182

EXAMINER

LUU, SY D

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/420,796

Applicant(s)

KIRKPATRICK ET AL.

Examiner

Sy D Luu

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2004 and 12 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11-14 and 16-23 is/are allowed.
- 6) ☒ Claim(s) 24-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This communication is responsive to the RCE and the Amendment, filed on 7/22/04 and 5/12/04 respectively. This action is Non-Final.
2. Claims 1-9, 11-14, and 16-25 are pending in this application. Claims 1, 16, 20, 23, and 24 are independent claims. In the Amendment filed on 5/12/04, claims 1-6, 11-14 and 16-25 were amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 102*

4. Claims 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Kazama et al ("Kazama", U.S. 6,111,580).

As per claim 24, Kazama teaches a method of enabling a computer system to recognize specific actions of a user, said method comprising: associating a first computer event with a state of a first predetermined window (figs. 3A-3B; col. 5, lines 28-65; *associating a gesture event with a state of a predetermined window which would show the user's body including the hand*) ; and storing information in a memory device regarding said association (col. 13, lines 40-45).

As per claim 25, Kazama teaches the step of capturing an image of said user (figs. 3A and 13; col. 3, lines 38-57; col. 9, lines 21-41).

***Response to Arguments***

5. Applicant's remarks with respect to claims 1-9, 11-14 and 16-23 have been fully considered and are persuasive. However, the Examiner finds that the claim language of claims 24-25 is still read on by the Kazama reference as presented above.

***Allowable Subject Matter***

6. Claims 1-23 are allowed.

7. The following is an examiner's statement of reasons for allowance. The prior art made of record fails to anticipate or make obvious the claimed invention. Specifically, the prior art fails to teach, in combination with the remaining elements, the step of capturing a first image of a user within a first predetermined window in a video stream as recited in the independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Inquires***

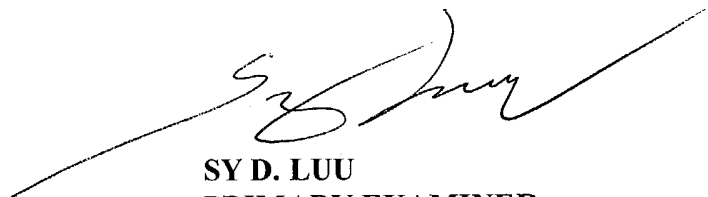
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The examiner can also be reached on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



**SY D. LUU**  
**PRIMARY EXAMINER**